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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/586,295	07/13/2006	Eric Courbon	034299-706	3081
46188 7590 08/15/2008 THELEN REID BROWN RAYSMAN & STEINER LLP P. O. BOX 640640 SAN JOSE, CA 95164-0640				
EXAMINER				
FISHMAN, MARINA				
ART UNIT		PAPER NUMBER		
2832				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/586,295

Applicant(s)

COURBON ET AL.

Examiner

Marina Fishman

Art Unit

2832

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13, 17 and 18 is/are rejected.
- 7) ☒ Claim(s) 14-16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

General status

1. This is a First Action on the Merits. Claims 1 - 18 are pending in the case and are being examined.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1 – 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, recites “a device for controlling a circuit-breaker intended for opening and closing this electric power cut-off device comprising a mobile contact, said control device comprising a motor with a rotary output shaft, the motor configured to initiate opening and closing of the electric power cut-off device”. It is not clear if “a circuit breaker”, recited in line 1, is the same as “this electric power cut-off device”, recited in line 2, and “the electric power cut off device” recited in line 4. Also, the claim recites “a dive” in line 1, whereas “said control device” in line 2. In addition, it is not clear if, only “a (control) device” is being positively claimed or a combination of (control) device and a circuit breaker is being positively claimed.

Claims 3 and 12, each recite “said abutment element” and Claim 12, recites “said abutment”, all lack proper antecedent basis.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1 – 13, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yin [US 4,800,242] in view of Sfondrini et al. [WO 00/05735].

Regarding Claim 1s and 13, Yin discloses a device for controlling a circuit breaker intended for opening and closing the device comprising:

- a mobile contact [20 uper];
- an actuation means [40,12,44] connected to contact [Figure 1];
- a mechanical spring arrangement [Figure 2] involved in opening and closing the contact, the spring arrangement including two pre-stressed and antagonist mechanical springs [28A, 28B], a first spring [28A], an opening spring, ensuring the opening of the contact and a second spring [28B], a closing spring, ensuring the closing of the contact, the actuation means being stressed by each of these two springs separated by a ring or a mobile element [45], and including an arrangement for immobilizing the contact in the open position and the closed position [48, 50];

- wherein the actuation means include a set of jointed elements [44, 12] providing the connection of the rotary shaft and of the ring, and in that, in the closed position of the contact [Figure 1], the set of jointed elements abuts against an abutment element [48, Claim 13] near an open dead center position [Figure 1], the opening spring only being able to drive it towards the open position [Figure 2] upon moving past the open dead center position during opening.

Yin discloses a manual actuation means, however do not disclose a motorized actuation means. Sfondrini et al. [Figure 10] disclose a motorized actuation means, comprising a motor [60], a shaft [61] a set of gears [78, 81] and jointed elements [64, 640]. The actuation means would have a maximum displacement when the jointed elements or linkage [64, 640] is at an open dead center position [Figure 9] and can only move in the opposite direction. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide motorized opening and closing system for contacts, in Yin as suggested by Sfondrini in order to have quick response time.

Regarding Claim 2, the modified device of Yin will have a set of jointed elements comprises a crank [12] configured driven into rotation by the output shaft and jointed at one end of a connecting rod [44], the other end of which is jointed on the ring [45]. Regarding Claim 3, in the open position of the contact, the set of jointed elements abuts against the abutment element [48, 50] near a dead center position, a closed dead

center, the closing spring [28B] being only able to drive it towards the closing position upon moving past this dead centre during closing. Regarding Claim 4, the crank is driven into rotation by the output shaft via a toothed segment [Sfondrini, 78, 80] meshed on the output shaft and on which it is jointed. Regarding Claims 5 and 6, although, Sfondrini does not disclose power converter, speed regulators and damper, it would have been obvious to provide power converter, speed regulators and damper, connected to the motor of Sfondrini in order to control the speed of the movement of the connecting rod. Regarding Claim 7, Yin discloses springs [128A, 28B] that are mounted aligned along an axis, one of their respective ends abutting against a spring abutment [housing 38] and the other end of the springs being separated by a ring [45]. Regarding Claims 8 and 9, the device includes an arrangement for disengaging the action of the closing spring [by operation of flange with collars 58, 60]. Regarding Claims 10 and 11, the device comprises a device for pushing the set of jointed elements towards its open dead centre [by operation of motor and elements 48, 50] and the pushing device consists in a striker [one of 48, 50] intended to stress [or stop] the crank [12]. Regarding Claim 17, Yin discloses contacts in Figure 1. For Claim 18, the first position is taken as a second position and second position is taken as a first position.

Allowable Subject Matter

6. Claims 14 - 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

7. Applicant's arguments filed July 10, 2008 have been fully considered but they are not persuasive.

The Applicant has argued that the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious. The Examiner is of the opinion that the improving a hand operated system on Yin, by adding a motor to make the operation quicker is a substantial motivation for combining the references. The Office action follows all the required steps for combination of references to make prima facie case of obviousness under 35 USC 103. The Action, presented above, includes (a) determining the scope and contents of the prior art, (b) ascertaining the differences between the prior art and the claims at issue, (c) resolving the level of ordinary skill in the pertinent art, and (d) considering objective evidence present in the application indicating obviousness or nonobviousness. Thus the Office Action establishes prima facie case of obviousness. The Applicant has also argued that Yin discloses a single spring 28. The Examiner respectfully disagrees. Yin, though uses numeral 28 to designate spring, in general, has disclosed two springs 28A and 28B. The Applicant has further argued that Yin, does not disclose a motor. The rejection is an obviousness rejection and Sfondrini et al. discloses use of a motor. The combined reference of Yin and Sfondrini et al. satisfies the claim limitations

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marina Fishman whose telephone number is (571)272-1991. The examiner can normally be reached on 7-5 M-T.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin Enad can be reached on 571-272-1990. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Elvin G Enad/
Supervisory Patent Examiner, Art Unit 2832

/Marina Fishman/
Examiner, Art Unit 2832
August 12, 2008

